

(c) *Modernization* means the alteration, repair, remodeling and/or renovation of a building (including the initial equipment thereof and improvements to the building's site) which, when completed, will render the building suitable for use by the project for which the grant is made.

[43 FR 5352, Feb. 7, 1978]

**§51c.503 Application.**

(a) *General requirements.* An application for a grant under this part for a project under subparts B, C, or D which includes the acquisition and/or modernization of an existing building must include the following:

(1) A legal description of the site and a drawing showing the location of the building;

(2) A description of the architectural, structural, and other pertinent characteristics of the building sufficient to show that it is or that it will be, after alteration and renovation or after modernization, suitable for use by the project;

(3) A detailed estimate of the cost of the proposed acquisition and/or modernization;

(4) A description of, and copies of any relevant documents concerning, any existing or proposed financing arrangements for the acquisition and/or modernization;

(5) The proposed schedule for acquisition and/or modernization and occupancy;

(6) An assessment of the environmental impact of the proposed acquisition and/or modernization as called for by section 102(2)(c) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(c)) and such information as may be necessary to comply with the National Historic Preservation Act of 1966 (16 U.S.C. 470(f));

(7) Reasonable assurances that—

(i) The applicant has or will obtain a fee simple or such other estate or interest in the site, including necessary easements and rights-of-way, sufficient to assure for a period of not less than 20 years (in the case of interim facilities, for the period constituting the estimated useful life of such facilities) undisturbed use and possession for the purpose of the operation of the project;

(ii) The building will be used for the purposes for which the grant is made;

(iii) The building complies, or after alteration and renovation or after modernization will comply, with applicable State and local codes and with:

(A) "American National Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped" Number ANSI A117.1-1961 (R 1971), as modified by other standards prescribed by the Secretary or the Administrator of the General Services Administration. The applicant shall be responsible for conducting inspections to insure compliance with the specifications;

(B) The applicable standards set forth in Life Safety Code 1973, NFPA No. 101, which is hereby incorporated by reference and made a part hereof. Copies of such document are available for examination at the Department's and Regional Offices' Information Centers listed in 45 CFR 5.31 and may also be obtained from the National Fire Protection Association, 470 Atlantic Avenue, Boston, MA 02210 for \$3.00 per copy.

(iv) In the case of a public applicant with an approved project which involves the displacement of persons or businesses on or after January 2, 1971, whose real property has or will be taken, the applicant will comply with the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Pub. L. 91-646) and the applicable regulations issued thereunder (45 CFR part 15);

(v) Sufficient funds will be available to meet any portion of the cost of acquiring and/or modernizing the building not borne by the grant under this part;

(vi) Sufficient funds will be available after acquisition and/or modernization of the building for effective use of the building for the purposes of the project;

(vii) The applicable requirements of the Flood Disaster Protection Act of 1973 have been met;

(8) Such other information as the Secretary may reasonably require.

(b) *Requirement for acquisition grants.* Except for a grant solely for amortization of principal and payment of interest on an existing loan, an application for a grant for a project which includes

the acquisition of an existing building must include, in addition to the requirements of paragraph (a) of this section, evidence satisfactory to the Secretary that the applicant has explored other alternatives to the proposed acquisition (such as leasing facilities or acquiring other facilities in the project's catchment area) and that the proposed acquisition constitutes the soundest alternative from a financial and program standpoint.

(c) *Requirements for modernization grants.* In addition to the requirements of paragraph (a) of this section, an application for a grant for a project which includes modernization of an existing building must include the following:

(1) Plans and specifications for the proposed modernization which conform to the standards specified in §51c.503(a)(7)(iii);

(2) Reasonable assurance that any laborer or mechanic employed by any contractor or subcontractor in the performance of work on the modernization project will be paid wages at rates not less than those prevailing on similar work in the locality as determined by the Secretary of Labor under the Davis-Bacon Act (40 U.S.C. 276a *et seq.*) and will receive compensation at a rate not less than one and one-half times his basic rate of pay for all hours worked in any workweek in excess of 8 hours in any calendar day; and

(3) Copies of any construction and materials contracts already entered into for the proposed modernization.

[41 FR 57000, Dec. 30, 1976, as amended at 43 FR 5352, Feb. 7, 1978]

#### §51c.504 Project elements.

(a) *General requirements.* A grantee which has received a grant under section 330 of the Act for a project which includes the acquisition and/or modernization of an existing building must:

(1) *Assurances.* Comply with the assurances provided pursuant to this subpart.

(2) *Approval of estimated cost.* Not enter into any contract for the acquisition and/or modernization funded under this subpart where the cost of such acquisition and/or modernization exceeds the estimates in the application, without the prior approval of the Secretary.

(3) *Non-default.* Make every effort to prevent any default on any loan secured by the building and, in the event of a default, promptly notify the Secretary of the default and make every effort on a timely basis to cure the default.

(b) *Requirements for acquisition grants.* In addition to the requirements of paragraph (a) of this section, a grantee which has received a grant under section 330 of the Act for a project which includes the acquisition of an existing building must:

(1) *Bona-fide sale.* Acquire or, in the case of a grant solely for amortization of principal and payment of interest on an existing loan, have acquired the existing building pursuant to a bona-fide sale involving an actual cost to the applicant and resulting in additional or improved facilities for the purposes of the project.

(2) *Standards of construction and equipment.* Except in the case of a grant solely for amortization of principal and payment of interest on an existing loan, obtain a determination by the Secretary that the facility conforms (or upon completion of any necessary alteration and renovation or modernization will conform) to the standards set forth in §51c.503(a)(7)(iii) of this subpart before entering into a final or unconditional contract for the acquisition. Where the Secretary finds that exceptions to or modifications of any such standards would be consistent with the purposes of the Act and of the program, he may authorize such exceptions or modifications.

(3) *Financing.* Where the grantee will obtain a loan secured by the building in order to acquire the building, obtain such financing at the lowest current rate prevailing in the area for comparable loans on comparable facilities.

(c) *Requirements for modernization grants.* In addition to the requirements of paragraph (a) of this section, a grantee which has received a grant under section 330 of the Act for a project which includes the modernization of an existing building must:

(1) *Costs in excess of approved costs.* Finance all costs in excess of the estimated costs approved in the application and submit to the Secretary for